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Amendments to the Drawings:

Please replace Figures 1-6 with the informal Figures 1-6 attached hereto.

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REMARKS

Upon entry of this Amendment Claims 9 and 12 will be pending in this application.

Amendments to the Drawings

Applicant herein submits proposed informal Replacement Drawings. The marked up replacement drawings are attached herewith. The drawings have been corrected by replacing the reference character "35" with the reference character -- 3 -- in Figures 1, 2, 4, and 5. The drawings have also been amended by deleting the reference character "4", and its arrow, in Figure 1. The above corrections have been made by hand in the replacement drawings.

Contrary to Examiner's assertion in the Office Action that character "4" has been used to designate the string fastening in Figures 2 and 4, it is applicant's position that in Figure 4 the character "4" is shown to designate the tie strap in Figures 2, 4 and 5, and in Figure 1 it should have been designating the tie strap, but the arrow was erroneously drawn from the reference character "4" to point to a strip in the shoulder area. Figure 1 has now been corrected to eliminate the reference character "4" and its improperly drawn arrow.

Please replace the drawings that are currently in the application with the attached proposed corrective replacement drawings.

No issue of new matter is believed to be raised by the submission of the Replacement Drawings.

Applicant believes that the proposed amendments to the drawings fully respond to Examiner's objections as to the drawings, contained in Paragraphs 1 and 2 of the Office Action. Should the proposed changes be agreeable to the Examiner, the applicant shall submit formal drawings incorporating the above changes.

Upon receipt of the Examiner's approval of the proposed amendments Applicant will submit Formal Drawings.

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Amendments to the Specification

Applicant has amended the specification to correct the use of the reference characters "35" and "3". Applicant has also amended the specification to correct numerous clerical, typographic and grammatical errors that appear to have been related to the translation of the application into English. No issue of new matter is believed to be raised.

Amendments to the Claims

Applicant herein cancels Claims 1-8 and 10-11 without prejudice to the presentation of the recited subject matter in further claims.

Applicant amends Claim 9 to an independent form by incorporating language from the claims upon which Claim 9 previously depended.

Applicant amends Claim 9 and 12 to clarify that the flexible elastomeric frame is inside the front edge of the hat and cape portions. Support for the amendment is found in the specification at page 3, lines 22-28 beginning with the sentence that starts "As indicated in Figure 1..."

Rejections under 35 USC 112, Second Paragraph

The Examiner rejected pending claim 9 stating that "A flexible elastomeric frame and a rubber tube frame provide no clear meaning to one of ordinary skill in the art" and that "There is no indication that the material of the cape or hood is rubber or elastomeric." Applicant respectfully traverses the rejection.

The Examiner noted the Examiner's assumption that Applicant is referring to the casing. Applicant believes that the Examiner has not completely recognized the invention and that perhaps this has led to a misunderstanding of the use of the terms flexible elastomeric frame and the particular example of a rubber tube frame. Applicant's specification describes that explains that the flexible elastomeric frame is inside the front edge of the hat and cape portions (specification at page 3, lines 22-28 beginning with the sentence that starts "As indicated in Figure 1..."). In view of this description Applicant believes that it is clear that the frame is placed inside the edge of the material of the cape and hat. Applicant has amended Claim 9 for clarity in regard to this aspect of the invention.

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In view of Applicant's amendment and remarks, Applicant respectfully requests the withdrawal of the stated rejection.

The Examiner rejected Claim 12 stating that the term "doubled over" does not adequately describe a type of seam. Applicant respectfully traverses the rejection.

Applicant directs the Examiner's attention to Figure 3 and the first full paragraph on page 4 of the specification. Applicant both visually and in words describes the type of seam that is referred to as "doubled over." Applicant believes that Applicant is permitted to use terms of Applicant's choosing as long as they are clearly defined in the specification.

In view of Applicant's amendment and remarks, Applicant respectfully requests the withdrawal of the stated rejection.

Rejections under 35 USC 102

The Examiner rejected Claims 1-4, 6-8 and 10-11 in view of US 5,165,111. The rejection is moot because Applicant has canceled the rejected claims.

The Examiner rejected Claims 1-8 and 10-12 in view of US 5,564,125 arguing that the front edge of the article shown in the reference is a flexible frame as shown by Applicant. Claim 12 is pending in this application. Applicant respectfully traverses the rejection.

Applicant has amended Claim 12 to clarify that the flexible frame is provided inside the edge of the hat and cape of the present invention. The claim has never recited, nor has the specification described, that the frame is formed of the edge. The frame is not the edge per se. The claim recited that the edge is provided with a frame, not that the edge is a frame. The cited reference shows merely that the edge of the article shown in the reference has an edge that is flexible, and possibly tubular. The reference in no way describes that the edge is provided with a frame as described in the present application. Neither does the reference show a flexible frame inside the edge as presently claimed. Therefore, the cited reference can not anticipate Claim 12.

In view of Applicant's clarifying amendment and the remarks above, Applicant respectfully requests that the stated rejection be withdrawn.

The Examiner rejected Claims 1-4 and 6-11 in view of US 6,751,806 stating that "the hat portion of the device has a front edge comprising a flexible frame

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that is a flexible tube frame in as much as shown by applicant (see dashed line at the edge of the hat, Fig. 5)." Claim 9 is pending in this application. Applicant respectfully traverses this rejection.

Applicant has amended Claim 9 to clarify that the flexible frame is provided inside the edge of the hat and cape of the present invention. The claim has never recited, nor has the specification described, that the frame is formed of the edge. The frame is not the edge per se. The claim recited that the edge is provided with a frame, not that the edge is a frame. The cited reference shows merely that the edge of the article shown in the reference has an edge that is flexible and, possibly tubular. The reference in no way describes the edge is provided with a frame as described in the present application. Neither does the reference show a flexible frame inside the edge as presently claimed. Therefore, the cited reference can not anticipate Claim 9.

In view of Applicant's clarifying amendment and the remarks above, Applicant respectfully requests that the stated rejection be withdrawn.

New Matter

Applicant has presented minor clarifying amendments to Claims 9 and 12 to reflect the description of the frame presented in the specification and previously recited in the claims. No issue of new matter is presented by the amendments. Therefore, Applicant's amendments are not seen to raise grounds for new rejections that could not have been presented earlier.

Conclusion

In view of Applicant's amendments and remarks Applicant believes that Claims 9 and 12 are in condition for allowance.

If the Examiner believes that a telephone conference would advance the prosecution of this application, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number below.

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Please return the Acknowledgment Postcard and indicate thereon the date that enclosed materials were received by the United States Patent and Trademark Office.

CONDITIONAL PETITION

Applicant hereby makes a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this filing.

Respectfully submitted,

By 

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